

Kershaw County Board of Zoning Appeals



MINUTES

KERSHAW COUNTY BOARD OF ZONING APPEALS JANUARY 7, 2019 REGULAR SESSION COUNCIL CHAMBERS, KERSHAW COUNTY GOVERNMENT CENTER CAMDEN, SOUTH CAROLINA

Members Present: David Brown, Mike Jones, Paul Holder, and Ben Strickland

Members Absent: Justin Conder

Staff Present: Michael Conley, and Rhonda Darity

CALL TO ORDER

Paul Holder, called the meeting to order at 5:30 p.m.

MINUTES

The minutes from the December 4, 2018 regular meeting were reviewed. The motion to approve was made by David Brown, seconded by Ben Strickland, and approval was unanimous.

PUBLIC HEARING CASE #18-03 (2586 Lake Road TMS# 177-01-06-074)

Paul Holder opened the public hearing:

Planning and Zoning Director, Michael Conley, informed the Board that the case was tabled at the Board's last meeting. The applicant is requesting a variance for the determination of Front Yard Setbacks as set forth in Section 3:2.1 and Table 3-4 of the Kershaw County Unified Code of Zoning and Land Development Regulations (ZLDR). R-15 zoning district requires a front yard setback of 35 feet from the property line. The applicant constructed a garage/shed in their front yard setback area for their motor coach. They put a driveway onto their property from Lake Road, on the curve. They removed a good amount of buffering, and placed the structure in their front yard setback. The applicant is requesting a 20.9 foot front yard setback. At the last meeting, the Board decided to table the case, in order for the applicant to try to rectify some of the concerns that the Board had. They have implemented a curb cut application. SCDOT's stipulations are that it can be used as a right turn exit from the property only, it cannot be used as an entrance to the property.

Mr. & Mrs. VanTine addressed the Board. Mrs. Vantine explained how they looked for the best location to place the structure. They have a shared driveway with their neighbor. She described the layout of their property, overhead power lines, and how they thought this was the best location to put the structure. The excavator removed more of the hill that what they planned on removing, but they plan to replace a good portion of the hill. They are going to close off part of the driveway. They had concerns about building up the site to the side of the property and possibly having it deteriorate and wash out.

There was some discussion between the Board, applicants, and Mr. Conley. During this discussion the Board determined that the request did not meet the standards for a variance set by State Law. Mr. Conley informed the Board, that staff recommended that a variance not be granted to the applicant in order to build the garage within the front setback area of the property.

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There being no more testimony, the Chairman called for a motion. Mike Jones made the motion to disapprove the request for a variance. The motion was seconded by Ben Strickland, and all voted in favor of the disapproval of the variance request.

PUBLIC HEARING CASE# 18-04 (1005 Sessions Road TMS#321-01-00-006A-SPW)

Paul Holder opened the public hearing.

Mr. Conley informed the Board that the applicant, is requesting a variance for the determination of side yard setbacks as set forth in Section 3:2.1 and Table 3-4 of the ZLDR. The developer, Cecil Brazell built a house on this parcel. He pulled the permits. The footings were inspected by our building inspector, and met the side yard setbacks, and then some adjustments were made, and decisions were made and the house was turned slightly and in doing so put the house into the side yard setback. The developer went on building the house. We went back out later after receiving a complaint that they believed that the setback was a different setback that what was originally measured, and at that time we found out that it is 4.64 feet off of the side property line. At that time we started speaking with the developer, and he requested to apply for a variance to be relieved of the side yard setback requirement, which is 10 feet. A determination of the distance of the HVAC from the property line has not been made, but it is a little closer. Staff does not see any reason to approve this variance it is our reasoning to deny this variance, there is plenty of space/buildable area on the property to put this structure, a different design of the home could have alleviated much of the concerns brought forth by the developer, rear access garage, turning the house to face Sessions Road instead of Wildwood, other things that could have been done. They have plenty of space to slide it over 6 feet to meet the setbacks. There is nothing extraordinary about the property. The property line could possibly been looked at, to be moved to accommodate some of these things. Court case Rush v. City of Greenville (1965), Georgetown County Building Official v. Lewis (1986), an owner is not entitled to relief from a self-created or self-inflicted hardship. We look at it as a self-inflicted hardship. Therefore, staff recommends that a variance not be granted to the applicant.

The applicant, Daniel Riddick, representing Cecil Brazell (developer) addressed the Board. They are requesting a variance because the house was turned slightly and encroaches into the side setback. SCDOT would not allow them to come straight across from Wildwood, and had to put the driveway on Sessions Road. This made entry into the side garage very difficult. The contractor that did the foundation decided to twist the house slightly to accommodate that driveway, and it worked pretty good, but it did put the house into the side setback.

During public comment, Elizabeth and David Balderston, adjacent property owners, addressed the Board. They became aware of the situation with the encroachment in the setback one day when they came home from work, and found stake markers in the middle of their side yard. David called Mr. Brazell about it, and Mr. Brazell told David that he didn't have any idea, but he would find out about it and let him know. Mrs. Balderston called the surveying company and talked with a lady, and asked why there is a stake marker on the inside of their yard and was told because Cecil asked them to put it there. The owners put stake markers on their property line, and they were removed. They have dealt with constant behind the back nonsense. It's been a hassle. If Mr. Brazell had just come to them in the beginning. She just wanted all to know about the nonsense. It seems a little shady to her.

Dianne Moore spoke to the Board on behalf of Mr. & Mrs. Balderston. She has seen the Balderstons struggling and dealing with this for a while, and it bothers her that they are trying to take part of their property. Mr. Brazell is a licensed contractor. That's his job. He should be overseeing the job and making sure things go as planned. This is a huge mistake. She doesn't know what the resolution is, but it just doesn't seem fair. They have no experience, he has the experience.

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The Chairman called for a motion. Ben Strickland made a motion to deny the request for a variance. The Chairman stated that the request did not meet the four standards required by State Law. The motion was seconded by Mike Jones, and all voted in favor to deny the request for a variance.

ADJOURNMENT

At 6:50 p.m., the Chairman called for a motion to adjourn. The motion to adjourn was made by David Brown, seconded by Ben Strickland, and approval was unanimous.

Respectfully submitted,

Rhonda Darity

Rhonda Darity

Secretary

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